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9 **Attorneys for Plaintiff**  
10 **Garden City Boxing Club, Inc.**

11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **Garden City Boxing Club, Inc.,**

14 **Plaintiff,**

15 **vs.**

16 **Miguel Juarez Zavala, et al.,**

17 **Defendant.**

18 **Case No. CV 07-5925 MMC**

19 **NOTICE OF APPLICATION AND**  
20 **APPLICATION FOR DEFAULT**  
21 **JUDGMENT BY THE COURT**

22 **For: Honorable Maxine M. Chesney**

23 **Date: Friday, August 22, 2008**

24 **Time: 9:00 AM**

25 **TO THE HONORABLE MAXINE M. CHESNEY, THE DEFENDANT AND**  
26 **HIS ATTORNEYS OF RECORD:**

27 **PLEASE TAKE NOTICE THAT** on Friday, August 15, 2008, at 9:00 AM or as soon  
28 thereafter as this matter may be heard by the above entitled United States District Court, located at  
450 Golden Gate Avenue, San Francisco, CA 94102, Plaintiff will present its Application for  
Default Judgment against Defendant Miguel Juarez Zavala, individually and d/b/a Tijuana Mike's  
Mexican Restaurant & Tequila Bar.

The Clerk has previously entered the default of said Defendant on or about June 26, 2008.

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**NOTICE OF APPLICATION AND APPLICATION**  
**FOR DEFAULT JUDGMENT BY THE COURT**  
**CASE NO. CV 07-59275 MMC**  
**PAGE 1**

At the time and place of hearing, Plaintiff will present proof of the following matters:

1. Defendant is not an infant or incompetent person, or in military service or otherwise exempted under the Soldiers' and Sailors' Civil Relief Act of 1940; and,

2. Defendant has not appeared in this action; and,

3. Notice of this Application for Default Judgment by Court and supplemental pleadings were served on said Defendant; and,

4. Plaintiff is entitled to judgment against the Defendant on the claims pled in the complaint. To wit:

A. By contract, Plaintiff paid for the proprietary rights to distribute the *Erik Morales v. Marco Antonio Barrera III World Super Featherweight Championship Fight Program* broadcast of November 27, 2004, via closed-circuit television (hereinafter referred to as the "Program").

B. With full knowledge that the Program was not to be intercepted, received, and/or exhibited by entities unauthorized to do so, the above named Defendant, and/or his agents, servants, workmen, and/or employees, did unlawfully intercept, receive and thereafter exhibit the Program at the time of the transmission at the address of the establishment, "Tijuana Mike's Mexican Restaurant & Tequila Bar", a food and drink operated by Defendant, and located at 200 San Joaquin Avenue, Antioch, California 94509. Please see the concurrently filed Declaration of Affiant.

C. Said unauthorized reception, interception and/or exhibition of the Program by said Defendant was done willfully and for the purpose of direct or indirect commercial advantage or private financial gain.

D. The unauthorized publication or use of communications, such as the transmission for which Plaintiff had the distribution rights, is prohibited by Title 47 U.S.C., Section 605, *et seq.*

1 E. The unauthorized reception, interception and exhibition of the Program at the  
2 address of the Defendant's establishment as described herein, is also prohibited by  
3 Title 47 U.S.C. sec. 553, *et seq.*

4 F. By said acts of receiving, intercepting and exhibiting the Program at the  
5 above-indicated address, Defendant tortuously obtained possession of the Program  
6 and wrongly converted same to his own use and benefit.

7 5. Plaintiff seeks Judgment in its favor and against the Defendant, in the amount of  
8 \$100,800.00. A breakdown of the relief requested under each of the three (3) counts of the  
9 Plaintiff's complaint is detailed within the Proposed Order concurrently filed.

10 6. By and through this Application, Plaintiff also seeks recovery of its attorneys' fees and  
11 relevant costs incurred as provided for pursuant to 47 U.S.C. Section 553, *et seq.* and 47 U.S.C. Section  
12 605, *et seq.*  
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21 Respectfully submitted,

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23  
24 Dated: July 15, 2008

/s/ Thomas P. Riley

**LAW OFFICES OF THOMAS P. RILEY, P.C.**

BY: Thomas P. Riley

Attorneys for Plaintiff

Garden City Boxing Club, Inc.

**PROOF OF SERVICE (SERVICE BY MAIL)**

I declare that:

I am employed in the County of Los Angeles, California. I am over the age of eighteen years and not a party to the within cause; my business address is First Library Squire, 1114 Fremont Avenue, South Pasadena, California 91030-3227. I am readily familiar with this law firm's practice for collection and processing of correspondence/documents for mail in the ordinary course of business.

On July 15, 2008, I served:

**NOTICE OF APPLICATION AND APPLICATION FOR DEFAULT JUDGMENT  
BY THE COURT**

On all parties referenced by enclosing a true copy thereof in a sealed envelope with postage prepaid and following ordinary business practices, said envelope was duly mailed and addressed to:

Miguel Juarez Zavala (Defendant)  
2316 Cooley Avenue  
East Palo Alto, CA 94303

I declare under the penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct and that this declaration was executed on July 15, 2008, at South Pasadena, California.

Dated: July 15, 2008

/s/ Emily Stewart  
**EMILY STEWART**